



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FPO/162008

PRELIMINARY RECITALS

Pursuant to a petition filed November 13, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on December 04, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly terminated petitioner's MA (BadgerCare Plus) due to being over the income limit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Simone Johnson, IM Spec. Adv.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On November 6, 2014 petitioner completed a renewal for MA.
3. On November 11, 2014 the agency received verification of petitioner's monthly earnings. See Exhibit 3. Petitioner's monthly household income was determined to be \$1892.

4. On November 7, 2014 the agency issued a notice of decision to petitioner stating that effective November 1, 2014 her MA would end due to being over the income limit for a household of 1.

DISCUSSION

BadgerCare Plus is Wisconsin's MA program for those who are not elderly or disabled. Effective April 1, 2014, those without minor children can receive MA benefits, but the amount of adjusted gross income a household can have and still be eligible for benefits fell to 100% of the federal poverty level for adults and 300% for children. Wis. Stat. §49.471(4)(a). The agency seeks to end the petitioner's eligibility because her household income exceeds 100% of the federal poverty level. For a one-person household, the size of the petitioner's, 100% of the federal poverty level is \$972.50 per month. *BadgerCare Plus Handbook*, §50.1, available online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm>.

Petitioner's monthly household income was determined to be \$1892. Unlike FoodShare and most other public assistance matters, agencies look at the actual income received in a month for MA. This means that the agency will multiply weekly income by four to obtain monthly income. Because her income exceeds 100% of the federal poverty level, the agency correctly determined that she is ineligible for BadgerCare Plus. I add, assuming petitioner finds this decision unfair, that I cannot deviate from what the law requires and I do not have equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

Petitioner is reminded that she can always reapply if her circumstances change.

CONCLUSIONS OF LAW

The agency correctly terminated petitioner's MA (BadgerCare Plus) due to being over the income limit.

THEREFORE, it is

ORDERED

The petition for review herein is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 6th day of January, 2015

\sKelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 6, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability